

REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on December 29, 2009. By way of the present response applicants have: 1) amended claims 1, 76, 77, 79, and 80; 2) added no claims; and 3) canceled no claims.

Support for the amendments is found in the specification as originally filed – e.g., at least in paragraphs [0013], [0019], [0048]-[0051], [0054], [0057], and [0059], and in Figures 2-7. No new matter has been added. Reconsideration of this application as amended is respectfully requested.

Examiner's Response to Amendment dated 8/12/09

The Examiner requested that applicants explicitly point out support for newly claimed features in the specification. Applicants respectfully submit that the Amendment dated 8/12/09 included a statement of support for the amendments to the claims. Additionally, applicants have provided support for the amendments included herein.

Drawing Objections

The Examiner objected to the drawings under 37 C.F.R. §1.83(a). In particular, the Examiner alleges that the previously claimed orientation mechanism, the input, and the remote processor were not shown in the Drawings. Applicants respectfully disagree. Nevertheless, in the interest of furthering prosecution, applicants have amended claims 76, 77, 79, and 80 to remove the terms that led to this objection. Claim 76 has been amended to recite “the label applicator is rotatable,” instead of “comprising an orientation mechanism.” The rotation of the

label applicator is shown, e.g., at least in Figures 3-4. Claim 77 has been amended to recite a computer instead of “an input.” An exemplary computer is shown, e.g., at least in Figure 2. Claims 79 and 80 have been amended to recite a “remote computer” rather than a “remote processor.” Exemplary remote computers (10) are illustrated, e.g., at least in Figure 2.

Accordingly, applicants submit that the objection to the drawings has been overcome.

35 U.S.C. §112 Rejections

Claims 1 and 74-81 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement. In particular, the Examiner argues that the claimed applicator which alters “the way” a label is applied is unclear. Applicants respectfully disagree. In the interest of furthering prosecution, however, applicants have amended claim 1 to recite label applicator is able to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied.

Additionally, the Examiner argues that the previously presented claim language addressed above in the regard to the Drawings Objections does not appear in the Specification. Applicants respectfully disagree and submit that the “subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” (MPEP §2163.02) (emphasis in original). In the interest of furthering

prosecution, however, applicants have amended claims 76, 77, 79, and 80 as described above.

Accordingly, applicants submit that the rejection to the claims has been overcome.

Claims 1 and 74-81 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Once again, the Examiner's rejection focuses on the previously presented claim language "the way" the label is applied. As set forth above, applicants have amended claim 1 to replace this claim language to clarify the claimed feature and structure.

Accordingly, applicants submit that the rejection to the claims has been overcome.

Claim Rejections – 35 U.S.C. § 103

Claims 1 and 74-81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent No. 6,317,648 by Sleep et al., (hereinafter "Sleep") in view of U.S. Patent No. 6,036,812 by Williams et al., (hereinafter, "Williams").

Applicants respectfully submit that the combination of Sleep and Williams fails to disclose a label applicator that is able to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied, is dependent upon the dimensions of the pack to be labelled as recited in claim 1. Sleep, in contrast to claim 1, describes a pre-labeler puck handling station (PHS) that determines the size of the bottle carried by each puck and routes the

bottles accordingly to a specific labeler. (Sleep, col. 10, lines 33-36). In other words, Sleep describes multiple line branches that provide a different labeler for each different bottle size rather than adapting a label applicator depending on the dimensions of the pack. There is no suggestion in Sleep that this multi-branch system could be replaced by a single labeling station which adapts the application of a label based upon the dimension of the pack to be labelled.

Williams also fails to disclose a label applicator that is able to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied, is dependent upon the dimensions of the pack to be labelled. Williams describes a pill dispensing system that utilizes a robot arm. Williams recognizes different size bottles need to be handled differently. (Williams, col. 3, lines 49-50). Williams also describes applying a label. Williams is silent, however, on applying a label based upon the dimension of the pack to be labelled as claimed.

The Examiner further argues that the claims recite intended operations and functions rather than structural differences from the cited art. Applicants respectfully disagree. The ability of a label applicator to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied, is dependent upon the dimensions of the pack to be labelled is a structural difference between the claimed system and a combination of Sleep and Williams. For example, the claimed ability does not merely recite the use of the system with packs of varying sizes, but rather a system that is physically able to adapt how it

applies a label based upon the dimensions of the pack. Neither Sleep nor Williams describes an applicator that is structurally capable of applying a label dependent upon the dimensions of the pack to be labelled as claimed.

Accordingly, applicants respectfully submit that the rejection of claim 1 has been overcome.

Given that claims 74-81 are dependent upon claim 1, and include additional features, applicants submit that the rejection of claims 74-81 has been overcome for at least the reasons set forth above.

Claims 1 and 74-81 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S Patent No. 6,672,356 by Jenkins et al., (hereinafter "Jenkins") in view of Williams. Applicants do not admit that Jenkins is prior art and reserve the right to swear behind Jenkins at a later date.

Applicants respectfully submit that Jenkins fails to disclose a label applicator that is able to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied, is dependent upon the dimensions of the pack to be labelled. Jenkins describes a pallet labeler system, not an automated pharmaceutical dispensing system. While Jenkins describes applying a label to a pallet at a predetermined position defined by label position data, it does so independently of the pallet size. (Jenkins, claims 1 and 11). In other words, the dimensions of the pallet are not a factor in the application of a label. As argued above, Williams also fails to disclose applying a label based upon the dimension of the pack to be labelled as claimed.

The Examiner further argues that the claims recite intended operations and functions rather than structural differences from the cited art. Applicants respectfully disagree. The ability of a label applicator to apply the label to the pack such that one or more of the position of the label on the pack, the orientation of the label relative to the pack, or the number of planes of the pack to which the label is applied, is dependent upon the dimensions of the pack to be labelled is a structural difference between the claimed system and a combination of Jenkins and Williams. For example, the claimed ability does not merely recite the use of the system with packs of varying sizes, but rather a system that is physically able to adapt how it applies a label based upon the dimensions of the pack. Neither Jenkins nor Williams describes an applicator that is structurally capable of applying a label dependent upon the dimensions of the pack to be labelled as claimed.

Accordingly, applicants respectfully submit that the rejection of claim 1 has been overcome.

Given that claims 74-81 are dependent upon claim 1, and include additional features, applicants submit that the rejection of claims 74-81 has been overcome for at least the reasons set forth above.

CONCLUSION

Applicants respectfully submit that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome.

Applicants reserve all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: May 28, 2010

/Ryan W. Elliott/
Ryan W. Elliott
Reg. No. 60,156

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(408) 720-8300